IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

Bail Appl..No. 4549 of 2007()

CRMP.838/2007 of DISTRICT COURT, KALPETTA
CRIME NO.140/06 OF AMBALAVAYAL POLICE STATION
RENUMBERED AS CRIME NO.344/06 OF CBCID, KOZHIKODE

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: PETITIONERS/ACCUSED:

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1. P.S. MOHANAN,
   PUNNAPURATH HOUSE, THOVARIMALA P.O.,
   SULTHAN BATHERY, WAYANAD DISTRICT.

2. M.K. RAJAN,
   MOOLATHINKATTIL HOUSE, THOVARIMALA P.O.,
   SULTHAN BATHERY, WAYANAD DISTRICT.

3. UNNIKRISHNAN,
   KOTTILINGAL HOUSE, POOMALA P.O.,
   SULTHAN BATHERY, WAYANAD DISTRICT.

4. SYAMSUNDER,
   KODAPPALITHONDU HOUSE, BEENACHI P.O.,
   SULTHAN BATHERY, WAYANAD DISTRICT.

5. K.G. REJI,
   KUPPAKATTIL HOUSE, NEMENI P.O.,
   SULTHAN BATHERY, WAYANAD DISTRICT.

6. NAZEER P.P.,
   PUTHIYAPARACKAL HOUSE, SULTHAN BATHERY P.O.,
   SULTHAN BATHERY, WAYANAD DISTRICT.

BY ADV. SRI.P.K.VARGHESE
SRI.K.S.ARUN KUMAR

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4549 of 2007

Dated this the 27th day of July, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 to 6. Altogether there are only 6 accused. They and the deceased allegedly belong to different unions of autorickshaw drivers. Earlier they were in the same union. But the deceased had allegedly switched loyalties and went over to another union. This generated ill will between the deceased and the petitioners. It is alleged that the petitioners had assaulted the victim and he was hospitalised. Later after he was discharged, he was again attacked. On account of the cumulative effect of these circumstances, the deceased allegedly committed suicide by hanging. He has allegedly left a suicide note in which he alleges that the petitioners are responsible for his death. It is in these circumstances that the crime under Section 306 I.P.C has been registered. Investigation is now being conducted by the C.B.C.I.D pursuant to a direction issued by this Court. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent of all the allegations raised against them. Even if the entire allegations were accepted, it only means that there was an exchange of words and there were altercations on two

occasions between the petitioners and the deceased. Even assuming that those allegations were true, there is nothing to infer that the petitioners wanted to bring about suicide of the deceased or that they did anything towards that end. Nay, there is nothing even to indicate that the petitioners knew or contemplated the possibility of the deceased committing suicide. In these circumstances, the petitioners may not be subjected to the unnecessary and undeserved trauma of arrest and incarceration. Anticipatory bail may be granted to them, it is prayed.

3. The learned Public Prosecutor opposes the application. Notwithstanding the opposition, I am satisfied that in the total absence of any allegations that the petitioners had intended or contemplated the consequence of suicide by the deceased, they can be granted anticipatory bail.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 03.08.2007. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3

p.m on 04.08.2007 and 06.08.07 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 03.08.07 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 03.08.07.

(R.BASANT, JUDGE)

rtr/-